The Planning Inspectorate

Appeal Decision

Site visit made on 18 December 2018

by Kevin Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th March 2019

Appeal Ref: APP/R0660/W/18/3211980
Land to west of Frog Lane, Pickmere WA16 0LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr M Dolan against the decision of Cheshire East Council.
- The application Ref 17/05078M, dated 4 October 2017, was refused by notice dated 21 March 2018.
- The development proposed was described as *'outline application with some matters reserved for an infill residential development comprising one residential dwelling with associated outbuildings with access considered.'*

Decision

1. The appeal is allowed and planning permission is granted for one residential dwelling with associated outbuildings, at Land to west of Frog Lane, Pickmere WA16 0LJ, in accordance with the terms of the application Ref 17/05078M, dated 4 October 2017, and subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr M Dolan against Cheshire East Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application was submitted in outline with all matters except access reserved for future determination. I have dealt with the proposal on that basis. I have adopted a revised development description in the formal decision above which more accurately and concisely describes the development than that originally given. To do so would not disadvantage any party.

4. On 19 February 2019, the Government published its Housing Delivery Test results alongside the publication of an updated revised National Planning Policy Framework (The Framework). The Housing Delivery Test outcome for the Council indicates that the delivery has been above the requirement over the last three years (at 183%), and the matter of the Council's five year supply of deliverable housing sites is not at issue between the parties. There is no change to the housing position as a result.

5. The revisions to the Framework do not otherwise materially alter the national policy approach in respect of the issues raised in this appeal and therefore the main parties have not been prejudiced by the updates to this document. References throughout this decision relate to the 2019 Framework.

Main Issues

6. The appeal site lies within an area of Green Belt. Therefore, the main issues in this case are:

   - Whether the proposal would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the Framework, and;
   - If the proposal would be inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

7. The appeal site is located on Frog Lane, which leads out of the village of Pickmere. At the time of my visit, the site was a largely open, grassed field, with an access point and gates to the centre of the site's road frontage and a gravel track laid around the inner perimeter of the site to one side, providing access to a field to the rear.

8. The Government attaches great importance to Green Belts. Paragraph 145 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development but lists certain forms of development which are not regarded as inappropriate. These include at criterion e) limited infilling in villages. Policy PG3 of the Cheshire East Local Plan Strategy 2010-2030 (July 2017) (the LPS) replicates the Framework approach to development within the Green Belt, listing the same exceptions to inappropriate development.

9. The Council refused the application on the basis that the proposal did not constitute limited infilling in a village as it was considered that the site represented a substantial gap along Frog Lane and was detached from the village of Pickmere. Therefore, the determinative questions to be considered are, firstly, whether the proposal would constitute infilling and whether it would be *limited* infilling, and secondly, whether it would be within a village.

10. On the first question, the Framework does not define 'limited infilling'. However, my attention is drawn to the glossary to the LPS which defines 'infill development' as *'the development of a relatively small gap between existing buildings.'*

11. The site has a frontage of some 50 metres, with a low hedgerow to the front boundary affording clear views into the site and beyond to open countryside. A large, detached dwelling, Lyncroft, stands to one side of the site. Beyond Lyncroft are four further properties of differing sizes and styles. To the other side, towards the main built-up area of Pickmere, are a pair of semi-detached dwellings, a barn appearing to be within the curtilage of the end dwelling of a subsequent small terrace of three, and a group of three bungalows, which brings development to the junction of Frog Lane and Park Lane. There is, therefore, a continuous line of development to this side of Frog Lane, to either side of the appeal site. In my judgement, the proposal would constitute infill development within this context.

12. In terms of whether it would be 'limited' infill, the site appears wider than some surrounding sites, but not significantly so. The proposal would be for a single dwelling, with the indicative plans showing two outbuildings, one a garage and the other a workshop, which together would span the width of the site and provide continuity to the built form along Frog Lane.

13. The indicative dwelling is large in size, but I observed several large dwellings among those on Frog Lane. In particular, development to the opposite side of the road includes a substantial detached dwelling with large, L-shaped outbuildings, which appeared converted for residential use. Moreover, I observed other examples of sizable detached outbuildings within the grounds of surrounding properties. Within this context, I find the scale of the proposal would be limited within the terms of Policy PG3 and the Framework.

14. I turn then to the question of whether the proposal would be within a village. Neither Policy PG3 nor the Framework defines or qualifies 'village' for the purposes of applying the policy or guidance. The Council's delegated report refers to the supporting text of Policy PG2 of the LPS, which relates to the settlement pattern of the Council area. The supporting text of the policy states that development will be restricted to locations *'well related to the built-up extent of these settlements.'* The Council considers it difficult to argue that a distance of 350 metres, taken literally, would be well related to the built-up extent of Pickmere.

15. However, both parties draw me to the Court of Appeal (CoA) judgement in the *Wood*[1] case, where it was held that, in considering the question of limited infilling, a village boundary as defined in a Local Plan would be a relevant consideration, but it would not necessarily be determinative, particularly where the boundary as defined did not accord with the Inspector's assessment of the extent of the village on the ground. The appellant also draws my attention to several appeal decisions which have adopted the approach established by the CoA judgement. I have had regard to the approach of the Inspectors in these decisions, and to other decisions referred to me by interested parties. However, as this approach requires an assessment of matters 'on the ground', the circumstances of each case will necessarily differ. Therefore, I give limited weight to comparisons made between other appeal schemes and the one before me, in particular where comparisons are drawn between relative distances and other physical characteristics, but have considered this appeal on its own merits.

16. The site stands some 350 metres beyond the Green Belt inset boundary of Pickmere. However, development continues along Park Lane on one side to a point close to the junction with Frog Lane, from where the bungalows at the end of Frog Lane are immediately in view across the junction, and development is thereafter continuous to the appeal site. From my observations, although the site lies beyond the main cluster of development within the village, it forms part of a linear pattern of development extending from the main built-up area. Given the layout of this development, with only the modest gap at the junction of Park Lane and Frog Lane, I find that the extent of the village on the ground includes the dwellings on Frog Lane.

[1] Julian Wood v The Secretary of State for Communities and Local Government, Gravesham Borough Council EWCA Civ 195 - 9 February 2015

17. Therefore, taking these considerations together, I find that the proposal would amount to limited infilling within a village within the meaning of criterion e) of Paragraph 145 of the Framework, and in accordance with Policy PG3. Consequently, the proposal would not constitute inappropriate development within the Green Belt.

18. With respect to openness and the purposes of the Green Belt, given my findings that the proposal is not inappropriate development, it would, by definition, not have an adverse impact on the openness of the Green Belt or the purposes of including land within it. This has been confirmed by the Courts in the *Lee Valley*[2] judgement, which sets out that development found to be 'not inappropriate' applying the relevant paragraphs of the Framework, should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land within it, as impact on openness is implicitly taken into account in the exceptions unless there is a specific requirement to consider the effect on openness. In the case of *'limited infilling in villages'* there is no such requirement to assess the impact on the openness of the Green Belt.

19. Moreover, given that the proposal would not amount to inappropriate development, there is no need for me to go on to consider whether very special circumstances exist in order to justify the development.

Other Matters

20. The Council's delegated report, wherein officers initially recommended permission be granted, raised no objection in respect of other matters, including access, highway safety, neighbour's living conditions or nature conservation. From all I have seen and read, I see no reason to reach different conclusions in these respects.

21. Interested parties have raised concern that the proposal would set a precedent for wider development of Green Belt land in the area. Whilst I appreciate previous planning decisions are cited in support of proposals, they must ultimately be determined on their own merits. As set out above, the assessment of whether a site amounts to limited infilling in a village involves considering various factors which will differ in each case depending on a site's location. Therefore, I do not consider that a decision to allow the appeal would establish a precedent which would jeopardise the protection of the Green Belt.

22. Concerns have been raised about the potential use of the workshop, and the site for parking of farm and other vehicles used in connection with the management of the appellant's landholding. The indications are that the workshop would form an ancillary building used in connection with the proposed dwelling. However, independent use could result in unanticipated effects such as increased traffic, noise or disturbance. Therefore, I find that such a building should be restricted to use ancillary to the residential use of the dwelling, which could be addressed by condition.

23. The detailed scale, design, layout and landscaping of the site are reserved for future consideration. The proposed development would be contained within a well-defined site, the rear boundary of which would be consistent with those to either side, and I see no reason why suitable buildings could not be accommodated on the site. I have had regard to concerns raised in respect of

[2] Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

the scale of the dwelling and outbuildings. The details submitted in respect of these are, however, indicative and not determinative in my considerations as they fall for approval at reserved matters stage.

Conditions

24. The Council has suggested conditions in the event the appeal is allowed, which I have considered in light of the tests of conditions within the Framework and guidance of the Planning Practice Guidance. Where necessary, I have amended the conditions to reflect the guidance. The appellant has confirmed his written agreement to those conditions which are pre-commencement.

25. I have imposed conditions relating to the submission and timing of reserved matters applications, the commencement of development and specifying the relevant drawings, in the interests of certainty. A number of the submitted plans show an indicative layout, scale, elevations and landscaping; however, these are reserved matters and do not form part of the appeal scheme before me. The Council's suggested landscaping and materials conditions are therefore not necessary for this reason.

26. I have imposed a condition requiring a construction method statement to protect the living conditions of neighbours and highway safety, and for the same reasons, a condition requiring a piling method statement, which would be applicable only in the event this method of construction is proposed.

27. A condition requiring installation of an electric vehicle charging point is necessary in the interests of air quality and increasing sustainable modes of transport in line with the approach of the Framework.

28. Finally, a condition is necessary to ensure that proposed outbuildings remain ancillary to the primary residential use of the dwelling, as their separate occupation for either residential or commercial purposes could give rise to additional impacts on neighbours' living conditions or increased traffic affecting highway safety.

Conclusion

29. For the reasons given, and taking all relevant matters into account, the appeal is allowed.

Kevin Savage

INSPECTOR

Schedule – Conditions

1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

4) The development hereby approved shall be carried out in accordance with the approved plans numbered 16 -180 (SU) 400 – Site Location Plan; and 16 -180 (FE) and 16-180 (FE)400 Rev C Proposed Block/Site Plan, but only insofar as they relate to the position and form of the access.

5) No development shall take place until visibility splays of a depth of 2.4 metres and a length of 43 metres measured from the centre point of the junction of the access with the public highway have been provided. The provided visibility splays shall subsequently be kept free from obstruction.

6) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

   i) the parking of vehicles of site operatives and visitors

   ii) loading and unloading of plant and materials

   iii) measures to control the emission of dust and dirt during construction.

7) No piling shall take place on the site until a Piling Method Statement has first been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the period of piling works. The approved Statement shall provide for:

   i) details of the method of piling

   ii) days of the week that piling is to take place and hours of piling work

   iii) the start and completion dates of piling operations

   iv) prior notification to the occupiers of neighbouring properties

   v) details of a designated responsible person who could be contacted in the event of complaint

8) Prior to first occupation of the development, the developer shall provide Electric Vehicle Infrastructure to the following specification:

   a. A single Mode 2 compliant Electric Vehicle Charging Point for the property with off road parking. The charging point shall be independently wired to a 30A spur to enable minimum 7kV charging.

   The infrastructure shall be maintained and operational in perpetuity.

9) The outbuildings hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling hereby permitted.

END OF SCHEDULE